IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUM. FOR JUDGMENT NO. 547 OF 2003

IN

SUMM.SUIT NO.3668 OF 2002..

Shivya R.Kapoor .. Plaintiff

versus

Paros Electronics (P) Ltd & anr.. Defendants

...

Mr.P.B.Kapadia for Plaintiff.

Ms.Bharti Singh for Defendants.

CORAM : D.G. KARNIK, J

DATED : 14th March 2005.

P.C:-

1. Heard learned counsel for the parties. Learned counsel for the plaintiff hands in the Summons for Judgment containing the acknowledgement dated 7th July, 2003 signed by the learned counsel for the defendants for having received the Summons for Judgment. Learned counsel for the defendants admits receipt of the Summons for Judgment on 7th July, 2003.

Despite service, the defendants have not applied for leave to defend nor have they filed any affidavit in reply for a period of 18 months. No other material is also produced on record by the defendants. In the circumstances, the averments made in the plaint are deemed to be admitted and the plaintiff is entitled to a decree under order 37 Rule 3(6) of the Code of Civil Procedure.

2. Learned counsel for the plaintiff hands in the original docuements. The documents are taken on record and collectively marked Exhibit A. I have perused the plaint and the documents. The plaintiff lent and advanced to the defendant no.1 a sum of Rs.1,00,000/- in three instalments to the defendant no.1 through 3 separate bills of exchanges for a total sum of Rs.1,00,000/-. The bills were accepted by the defendant no.2. The defendants failed and neglectled to make the payment. The plaintiff issued a notice. Office copies of the notice are filed on record. Despite notice, the defendants have not made the payment.

3. Learned counsel for the defendants states that this Court has no jurisdiction to try and entertain

the suit as the defendant no.2 resides outside Mumbai. The bills were drawn and accepted at Mumbai and payable at Mumbai. Hence, part of the cause of action arose at Mumbai. Leave under clause 12 of the Letters Patent has been obtained. The defendants have not applied for revocation of the leave. In the circumstances, the plaintiff is entitled to a decree under order 37 Rule 3 (6) of the Code of Civil Procedure.

4. Hence, I pass the following order:

> " The Summons for Judgment is made absolute and suit of the plaintiff is decreed as follows :
>
> "The defendants are ordered and decreed to pay to the plaintiff a sum of Rs,.1,23,000/- together with interest on the principal sum of Rs.1,00,000/- at 9 % p.a. from the date of the suit till payment and all costs of the suit. "

D.G.KARNIK, J